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Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea

Note verbale dated 28 December 2006 from the Permanent Mission of Austria to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Austria to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006) and, with reference to his note of 1 November 2006, has the honour to transmit its report pursuant to paragraph 11 of resolution 1718 (2006) on the steps taken by the Government of Austria to implement paragraph 8 of the above-mentioned resolution (see annex).

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Annex to the note verbale dated 28 December 2006 from the Permanent Mission of Austria to the United Nations addressed to the Chairman of the Committee

Security Council resolution 1718 (2006), implementation by Austria

1. Austria and the other Member States of the European Union (EU) have jointly implemented the restrictive measures against the Democratic People's Republic of Korea (DPRK) imposed by Security Council Resolutions 1718 (2006) by taking the following common measures[1]:

- Council Common Position 2006/795/CFSP of 20 November 2006 concerning restrictive measures against the Democratic People's Republic of Korea[2]

  The Common Position sets out the EU's commitment to implement the restrictive measures set out in Security Council Resolution 1718 (2006) and notably provides for a ban on exports of goods and technology which could contribute to the DPRK's nuclear-related, other weapons of mass destruction-related or ballistic missile-related programmes, and on the provision of related services, a ban on procurement of goods and technology from the DPRK, a ban on exports of luxury goods to the DPRK, as well as the freezing of funds and economic resources of persons, entities and bodies engaged in or providing support for the said DPRK programmes.

  A Regulation will in due course be adopted by the Council of the European Union in order to implement those measures contained in Security Council Resolution 1718 (2006) that fall within the scope of the Treaty establishing the European Community and, therefore, notably with a view to ensuring their uniform application by economic operators in all EU Member States, necessitate Community legislation in order to implement them as far as the Community is concerned. The Regulation will derogate from existing Community legislation that provides for general rules on exports to, and imports from, third countries, and in particular from Council Regulation (EC) No 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology[3]; most of these items and technology should be covered by this Regulation.

2. In addition, the competent Austrian authorities will apply the following Austrian legislation in implementing the restrictive measures against the DPRK imposed by Security Council Resolutions 1718 (2006):

- With regard to the obligations contained in paragraph 8 (a) to (c) and (f) of Security Council Resolutions 1718 (2006) the War Materials Act (WMA,

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[1] All common measures are published in the Official Journal of the European Union, which can be consulted through the following web-pages: http://eur-lex.europa.eu/JOIndex.do?ihmlang=en (published issues) and http://eur-lex.europa.eu/RECH_menu.do?ihmlang=en (search form)

[2] OJ L 322, 22.11.2006, p. 32.

[3] OJ L 159, 30.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 394/2006 (OJ L 74, 13.3.2006, p. 1).

Federal Law Gazette I No 57/2001 as amended), the Foreign Trade Act (FTA, Federal Law Gazette I No 50/2005 as amended) and Foreign Trade Regulation (FTAR, Federal Law Gazette II No 121/2006) require an export authorization for the sale, supply, transfer or export of arms and related materiel to third countries and an authorization for the provision of brokering services related to military activities. According to relevant provisions of these instruments, no authorization may be granted to export war materials, etc. to countries under a UN or an EU arms embargo. Non-compliance with the WMA or the FTA constitutes a criminal offence punishable with up to five years of imprisonment or payment of a fine of up to 360 daily rates.

In addition, the Austrian Penal Code (Federal Law Gazette I No 60/1974 as amended) stipulates that the illegal military assistance or support to a party to an armed conflict to which the Republic of Austria is not a party, including the supply of war material in violation of the existing legislation, is punishable with up to five years of imprisonment.

- With regard to the obligation contained in paragraph 8 (d) of Security Council Resolutions 1718 (2006) relating to the freezing of funds, other financial assets and economic resources the Austrian Exchange Control Act (Federal Law Gazette I No 123/2003) stipulates that non-compliance with regulations of the European Community or relevant Austrian Federal Government regulations concerning the freezing of funds is a criminal offence punishable with up to one year of imprisonment.

- With regard to the obligation contained in paragraph 8 (e) of Security Council Resolutions 1718 (2006) to prevent the entry into or transit through the territory of the Republic of Austria of the persons designated by the Sanctions Committee or by the Security Council as being responsible for, including through supporting or promoting, DPRK policies in relation to the DPRK's nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes, the Austrian Aliens Police Law (Federal Law Gazette I No 157/2005 as amended) and the Law on Residence (Federal Law Gazette I No 100/2005 as amended) empower the competent Austrian authorities to impose the appropriate travel or entry restrictions. The necessary instructions will be issued as soon as such persons have been designated by the Sanctions Committee or by the Security Council.